

“SPoke”

Informative chat from those who have it covered

The Biggest Purchase of Your Life Deserves the Best Possible Advice

Buying a property can be an exciting prospect, but it is essential that you take some time to carefully consider your choice of legal advisor who will carry out the conveyancing on your behalf. Put simply, conveyancing is the legal process involving the transfer of property ownership from one person to another.

As soon as you have an offer accepted on a property, the estate agent will ask you for your conveyancer's details. It is therefore wise to establish contact with a professional before you start looking for a property to avoid having to make this important decision in a rush.

It is worth noting that you will need to

choose a different conveyancer to that chosen by the Seller. This is to ensure that both parties are separately and independently represented without any prospect of a conflict of interest arising. However, your conveyancer will (in most cases) also be able to represent your mortgage lender in the transaction, and this can result in an overall costs saving.

One of the best means of finding a suitable conveyancer is through a personal recommendation, so it usually makes sense to ask friends, family or work colleagues who have already been through the house buying process.

Although cost is an important consider-

ation, it rarely pays in the long run to go for the cheapest quote. Budget conveyancing firms are cheap for a reason – they often employ staff who are unqualified and inexperienced. It makes sense to ensure that your conveyancer is a qualified and experienced property solicitor.

Another thing to look out for is whether or not the law firm has Conveyancing Quality Scheme (CQS) accreditation. Only law firms who reach consistently high standards of conveyancing (as tested by the Law Society) can gain the CQS accreditation. Furthermore, many of the big mortgage lenders will only agree to instruct law firms who are CQS members.

Your conveyancer will perform a vital role in your house purchase. He or she should ensure that the title to the property is 'clean' and marketable, undertake all relevant property searches, approve the terms of the contract and transfer deed, and then ensure that you are correctly registered as the owner at the Land Registry. This should ensure that minimal problems are encountered when you eventually come to sell the property, resulting in a faster sale & less chance of the sale price being reduced due to title issues.

A good conveyancer will also provide high quality and personal service, keeping the buyer regularly updated as to progress and letting them know when documents need to be signed & when funds are required. Keeping things moving along will result in a faster completion (moving in) date.

For more information contact Michael Storey - Specialist Conveyancing Solicitor 0191 2328451



Your Largest Asset Needs Your Will



Ingrid Forshaw - Wills & Probate Solicitor

For most people, buying a house will be the biggest purchase they will make in their lifetime. Having a will, even a simple one, will ensure that your house is left to beneficiaries of your choosing when you are no longer here. Not having a will may mean that your house passes to someone whom you do not wish to benefit.

A will can also limit the impact of residential care home costs ensuring that your property passes to your family for their benefit and not towards care home fees.

There are also opportunities available to make provision in advance for the possibility of you becoming incapable of managing your own financial and welfare

affairs during your lifetime.

This becomes increasingly important as the risk of supervening mental incapacity grows through longevity, illness or accident.



Michael Storey - Solicitor & Property Specialist

A Lasting Power of Attorney (LPA) is a legal document allowing you to choose in advance persons (called attorneys) whom you trust to make decisions on your behalf about financial and/or health and welfare matters in the event of you being unable to make such decisions yourself due to ill health.

You can choose anyone as an attorney, but it is sensible to choose persons who are close to you, whom you trust and who are sensibly minded. You can appoint a spouse, children, siblings or even friends.

Whilst you do not need a solicitor in order to make a will or LPA, it is advisable to see one to ensure your will/LPA meets the strict legal requirements necessary for your will/LPA to be valid. An incorrectly drawn will could cost your estate thousands of pounds after you have gone.

A solicitor who is a member of the Society of Trust and Estate Practitioners (STEP) is highly recommended. STEP members help families plan for their futures, specialising in a wide range of activities, from drafting a simple will to more complex issues.

Making Amends - A Guide to Building Regulations

The Building Regulations give us all minimum standards to which we must construct our properties. If you are replacing your windows, extending your property, adding a conservatory or converting your loft, cellar or garage, the work must have Building Regulations consent.

In a typical project, you ask a designer (often but not always an architect) to prepare the drawings for your proposal and a contractor to build the works for you. The contractor can do this all for you, which is known as a "design & build" contract since the builder performs both roles.

You would logically wish to have a contract with your builder; typically you would want a very simple contract for

smaller scale works, such as the JCT Minor Works Contract (your architect can discuss this with you).

But what happens (1) if the design contains errors, (2) if the contractor does not complete the work or (3) if the finished work contains defects?

For the first issue, your designer may have breached his contract with you or acted negligently and, if so, you can claim the damages that arise as a result of those design errors.

The second issue is simply dealt with; you want to agree a payment mechanism that pays for work done, not for work in advance. That way you still have your funds if the builder disappears. Be wary of contractors that demand massive percentages up front.

For the third issue, the contractor is liable to correct those defects. Be sure to agree to hold a retention sum (typically 5%) against the contractor, which he only gets when the visible defects have been addressed at the end of the job.

Our construction team would be pleased to discuss with you any issues that you are having with your project. It may be that the solution is easier than you think but, if not, at least we can explain your rights and remedies to you.



Kevin Anderson - Solicitor & Head of Construction Law

Local Expertise the Key When Buying Commercial Property

Throughout my career in the property industry, clients have often told me that buying a commercial property for their business has provided them with countless advantages to both the reputation and the finances of their company.

First and foremost, owning your own business premises is a symbol of success and of commercial worth to all stakeholders, including investors, suppliers and customers. It provides a base for business, a representation of the brand and a visible demonstration of professionalism. As a result, business owners often see their company thrive.

Although buying your own business property holds many advantages, it can be a tricky task. It is essential to gain expert professional surveys and legal advice so you can avoid acquiring a property with underlying issues that are invisible to the untrained eye.

It is critical you choose your team wisely. Local companies in any industry are renowned for having a greater sense of client loyalty than their corporate counterparts, working on the side of the individual and not the side of high profits and quick turnover. Property is a substantial commitment and a long term investment. Therefore, it would be wise to choose the most competent, successful and personal team who will ensure the property purchasing experience is as risk and stress free as possible.

One of the key advantages of choosing a locally based independent team is the extensive local knowledge. At Bradley Hall we have 25 years of experience working within the North East. We have developed the company into one of the region's leading chartered surveying and property agencies.

Enlisting the help of experts in the field gives you the advantage of identifying any problems with the building, the opportunity to gain advice on the current market climate, and the ability to have a professional representative who can negotiate a fair price on your behalf. Char-



Neil Hart - Director, Bradley Hall

tered surveyors can carry out a survey on the property as part of your mortgage application when buying, and when selling can help you to identify the key points of sale.

There are also many important legal factors to consider when buying a commercial property, for example the small print of your contract, the terms of your mortgage agreement or the management of the exchange of contracts and completion of the transaction. This is why I work closely with Samuel Phillips in order to provide a fully comprehensive service to my clients.

My colleagues and I at Bradley Hall work closely alongside Samuel Phillips in order to provide a first class service to those purchasing or selling property by creating excellent relationships with customers and ensuring they acquire the best properties for their hard earned money.

· Neil Hart is a director at Bradley Hall, Grey St. Newcastle. Please call 0191 232 8080

The Pitfalls of Co-Ownership

When a couple purchase a home together, it is usually an exciting event whether it be at the same time as they marry or undergo a civil partnership or whether they are just starting to live together.

Lots of time and energy will be devoted to finding that special property in the right location.

There are also various legal formalities to be undertaken as part of the process of buying a property and couples do not always devote the same time and energy checking that the right legal formalities are undertaken to fit their particular situation.

A married couple will usually be advised to hold the legal title to a property as joint tenants. This means that if one of them dies, the property will automatically be inherited by the other.

What if a party has children from a previous marriage or there is some other reason why on death, that party would not want their spouse or partner to inherit a jointly owned property in its entirety?

Jointly owned properties can also be held as tenants in common. In such situations, a property is still held in joint names but if it is held as tenants in com-

mon, this means that on death, each party can leave a Will leaving their share of the property to whoever they choose.

What happens to a joint property on death should not be the only consideration when buying a property. What if the relationship breaks down?

It is often advisable if a property is held as joint tenants to sever the joint tenancy so the property is then held as tenants in common.

If the couple are married or have undergone a civil partnership, their interests in a jointly owned property can be adjusted by the court through statute law and a court can order the sale of a jointly owned property and the division of the proceeds.

It is still advisable however if for example one party has made a greater contribution to the purchase of the property to record this and have this reflected in the way the legal title to the property is held.

When parties are not married or have not undergone a civil partnership, the court cannot adjust property rights and can only define existing rights.

Going to court to define property rights is an expensive and time consuming exercise and the outcome is extremely uncertain and unpredictable. It is therefore important when a couple are not married or have not undergone a civil partnership that property rights are defined from the outset to prevent confusion at a later date.

It is not possible to look into a crystal ball, but it is possible to ensure that when buying a property with another person, the legal title is held in a way that reflects both parties intentions and wishes. This will hopefully provide some peace of mind and the couple can then concentrate their energies on the more fun aspects of purchasing a property such as organising the house warming party!

Helping Hand

What could be more natural than wanting to assist your children?

About 80% of people under the age of thirty receive financial support from their parents (Council of Mortgage Lenders).

However, this generosity can become problematic if it involves not essentially just a gift to your child, but also to their spouse, civil partner, or co-habitee.

Our divorce rate remains the highest in Europe and cohabitation breakdown is even higher.

Relationship breakdown is a fact of life.

Some possible solutions : -

1. *'Making the gift into a loan'*.

This has to be a genuine loan. Be careful to avoid the trap of "soft loans", where no there is no real will to seek repayment. In a divorce court it may well be that a "soft loan" will not be taken into consideration.

2. *'family trust fund'*. Again, in a divorce scenario no guarantees can be given but it is a very clear way of stating intention

3. *'buy property together'*, define the proportions of ownership and think about the CGT implications

4. *'guarantee your child's mortgage'*. If the mortgage is not paid, you could be putting all your resources on the line.

There are Tax implications and inheritance implications to the above options and advice should always be sought.

The key way forward is to be clear about what your intentions are, to consider all possible drawbacks and outcomes and take advice to ensure the arrangement is properly recorded so at least you have a clear understanding of intention at the outset.



Jenny Goldstein - Head of Family Law

It's Covered

Specialist Areas Related to Property Matters

- Buying or selling (private or commercial)
- Construction
- Wills & probate
- Divorce
- Disputes
- Landlord & tenant

We offer a full range of legal services for personal and business related matters and welcome the opportunity to talk to you and help with your legal needs.



Elizabeth Gallagher - Family Solicitor

UnSocial Media - The Small Screen Invasion of Home Life

Your Notes

How many of us sit down on an evening to watch TV and look around to see children or partners face down in their smartphone, tablet or laptop?

Not an uncommon experience these days but what is it doing to our family life?

Our family law team often hear of distressing stories where an ex uses the children to spy on the previous partner by using "Skype" or "facetime" technology. These communication tools are useful when used to keep in touch with loved ones but take on a whole new sinister meaning in the hands of someone with an ulterior motive.

What cases such as this also highlight is the danger of these tools in the hands of those who are not so worldly wise.

In a recent discussion on Radio 4's Woman's Hour I was posed hypothetical questions raised by their listeners as genuine "real life" examples of social media intrusion.

1. How I would respond to accusations of being an alcoholic by a friend of my daughter who'd heard we were having a wine fridge installed and posted the comment on her very popular Facebook page?

2. In another scenario how would I deal with a son or daughter who posted embarrassing video of me on YouTube celebrating a Barbarians rugby victory over Australia?

These are two real examples experienced by radio 4 listeners and there are hundreds more like this. I'm sure we can all point to at least one "awkward" social media experience.

The answer is to set clear ground rules. Not just for the children but the whole family. If mum or dad post inappropriate photos on facebook or instagram it is highly likely the kids will see this as license to behave as badly on their own accounts. Trust and respect for personal privacy is at the heart of good social media etiquette.

The issue of privacy has raised its head a few times in the house of Laud's - that's when an embarrassing shot of one of the family appears on instagram or Facebook. In our home we can face fines of up to £5 if a mugshot or video clip appears on a social networking site without

permission. It works, as I found out to my cost. My youngest daughter fined me £45 for 9 counts of posting without permission following my "proud dad" uploads from a holiday in Spain. She was quite within her rights as I had overlooked the very important need to obtain the OK of the subject in the shot. To be honest I think she was a little surprised her protestations proved successful but we can't afford to be hypocritical with our children and we need to put our hands up and admit our mistakes. As a result everyone in the family is now acutely aware of the implications and treads very carefully around the issue ensuring awareness and consent when agreeing to upload or be tagged in a photo online.

After a rather slow start schools have made great strides to understand and manage pupil engagement with handheld technology and the growing number of social media platforms. Primary schools quite rightly banning phones during the school day, introducing their



David Laud - Chief Executive

own social sites for after school activities and secondary schools introducing best practice guidance and building it into the curriculum. The fear unfortunately remains that when the children are in the wifi home environment their parents just don't know what their children are doing online and who they are talking to.

For the 14-18 year old generation we are mostly playing "catch up" as the genie is well and truly out of the bottle. This generation has grown up with social networking sites and have a knowledge and understanding far beyond most parents teachers and so called "experts". It then

becomes an ever harder task to persuade them of the dangers of posting too many "selfies" or drunken escapades and more importantly be made aware of the more malicious intent of predator posters and followers?

Recent Advertising Standards Authority research highlighted the scale of the problem of children lying about their age on social networks. It identified 42% of respondents as being younger than the 18 year old they were attempting to be. It's also a worry to note that many parents are either unaware or consider it unimportant that their pre-teen child is on Facebook when the sites permitted entry age is 13, they therefore have created false profiles to obtain an account.

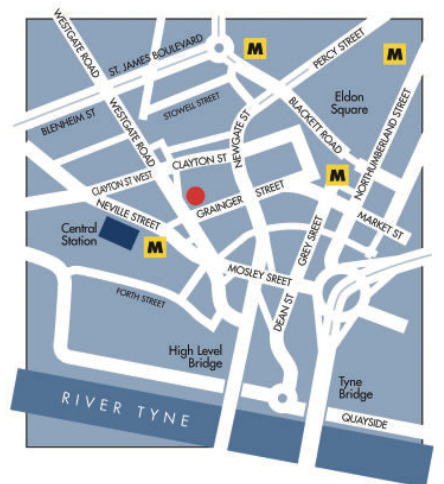
New image based social sites are also a concern. Vine and Snapchat are 2 that offer time limited posts. Despite the belief that many posts are transient, specifically Snapchats selling point, that messages are wiped away in an instant, we know that is just not the case. The web has a long and unforgiving memory and for the sake of future careers and relationships the sooner we understand the risks the better.

Of course social media sites offer great opportunities to share and make friends and these are clear positive aspects. It's true that I have my own children to thank for my interest in social media. A parents curiosity that became a large part of my life. Unfortunately the risks are real and we need to protect and educate against exposure to self-made stupidity, inappropriate content and individuals.

Understanding how to make social networking safe has become an essential skill for parents, teachers, managers and business owners and we owe it to ourselves to improve our collective knowledge.

If you are concerned and want help managing social media related issues at work or at home please drop us a line, we'd be happy to help.

David Laud is Chief Executive of Samuel Phillips, you can follow him on twitter @davidlaud



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